

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

LARRY DOUGLAS,)	
)	4:05cv3157
Plaintiff,)	
)	MEMORANDUM AND ORDER
vs.)	(appeal)
)	
UNION PACIFIC RAILROAD, et al.,)	
)	
Defendants.)	

This matter is before the court on filing no. 11, the Notice of Appeal filed by Billy Tyler, a prisoner who appeals filing no. 7, the Memorandum and Order in which I denied Mr. Tyler's Motions to Intervene in this litigation. Also before the court is filing no. 12, Tyler's Motion for Leave to Proceed in Forma Pauperis ("IFP") on appeal.

The Motion for Leave to Proceed IFP on appeal is denied. Tyler is a prisoner subject to the "three-strikes" provision of the Prison Litigation Reform Act ("PLRA"). Therefore, he now becomes liable for the full appellate filing fees. 28 U.S.C. § 1915(g) states:

In no event shall a prisoner bring a civil action or appeal a judgment in a civil action or proceeding under this section if the prisoner has, on 3 or more prior occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury.

As the "three strikes" provision applies to Tyler, and as this case does not meet any exception, Tyler shall have until September 1, 2005, to pay the full \$255 appellate filing

fees to the Clerk of the District Court. The Clerk of Court shall serve notice of this decision on the parties and the Eighth Circuit Court of Appeals.

SO ORDERED.

August 17, 2005.

BY THE COURT:

/s Richard G. Kopf
United States District Judge